

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

APR 25 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of Unbundling)
of Local Exchange Carrier) RM-8614
Common Line Facilities)

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF AT&T CORP.

Mark C. Rosenblum
John J. Langhauser
Aryeh S. Friedman
Clifford K. Williams

Its Attorneys

295 North Maple Avenue
Room 3252G3
Basking Ridge, New Jersey 07920
(908) 221-2717

April 25, 1995

No. of Copies rec'd
List A B C D E

074

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
APR 25 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of Unbundling)
of Local Exchange Carrier) RM-8614
Common Line Facilities)

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF AT&T CORP.

Pursuant to the Commission's Public Notice of March 10, 1995, AT&T Corp. ("AT&T") submits this reply to comments on the Petition for Rulemaking filed by MFS Communications Co., Inc. ("MFS").¹ The comments confirm that the benefits of competition can be both positive and profound, and that the Petition presents an opportunity for the Commission to begin to establish all of the conditions necessary to determine whether these benefits can be extended to the provision of exchange access and local exchange services.

The commenters are nearly unanimous in their support of unbundling of the local loop and their recognition that unbundling is an essential step in creating conditions that will best test the potential for competition in the provision of switched access and local exchange services.² These commenters -- comprised of

¹ A list of the commenters is attached as Appendix A.

² See, e.g., Ameritech, p. 1; NYNEX, p. 2; MCI, p. 2; Sprint, p. 1; Allnet, p. 2; TCG, p. 1; Cox, p. 2.

local exchange carriers, interexchange carriers, cable companies, and competitive access providers alike -- confirm that unbundling is manifestly in the public interest, because it can be an important step in bringing to switched access and local exchange customers the increased efficiency, innovation, and choice that characterizes other, vigorously competitive telecommunications markets.

Only one commenter -- Southwestern Bell Telephone Company ("SWB") -- suggests (p. 19) that unbundling of the local loop may not be in the public interest. SWB argues (id.) that the "efficacy" and desirability of unbundling depends on several factors, including the prices established for use of the local loop and for access services. AT&T agrees that pricing of the local loop and of other local exchange facilities is a significant factor in ensuring that unbundling promotes competition in the provision of exchange access and local exchange services to the maximum extent feasible. Without appropriate, cost-based rates, unbundling will not provide alternative exchange access and local exchange service providers a genuine opportunity to determine whether they can compete with incumbents. However, contrary to what SWB suggests, it is to ensure that these pricing issues are fully considered and resolved in favor of competition that the Commission should initiate a rulemaking on unbundling.

A few commenters also maintain that the local loop is not a bottleneck or essential facility,³ and thus need not be unbundled or otherwise be opened to potential competition. These commenters suggest that developing technologies and certain facilities under construction by cable companies and competitive access providers already offer viable alternatives to the local loop.⁴ At a minimum, they suggest, this construction shows that replication of the local loop is not prohibitively expensive. They argue further that the local loop is not an essential facility, because functional equivalents -- private line or special access termination channels -- are currently available.⁵

Each of these claims is completely incorrect. As demonstrated in the Petition and elsewhere, the alternative technologies cited by these commenters are still developing and offer no more than uncertain prospects for the provision of exchange access and local exchange services. Cellular service currently lacks the capacity, quality, and security reliably to provide local

³ See, e.g., SWB, pp 6-14. ; Bell Atlantic, pp. 8-10; BellSouth, p. 6-9.

⁴ See, e.g., NYNEX, pp. 4-7; BellSouth, pp. 7-8; GTE, pp. 13-19; Southwestern Bell, pp. 9-11, 16-18.

⁵ See, e.g., BellSouth, pp. 9-15; GTE, pp. 23-29.

loop functionality. PCS systems are not yet even under construction, much less operational. The Commission has not completed its auctions of PCS spectrum, no broadband licenses have been awarded and the types of services likely to be provided are not yet clear. Cable systems are not currently equipped to perform switching or other basic exchange access and exchange functions, and it is very uncertain whether they can be economically so equipped. Indeed, despite references to certain targeted attempts to provide exchange access and local exchange services in the future, no commenter can identify a single alternative loop provider that currently offers ubiquitous or widespread service using its own facilities within even one local exchange service area.

Private lines and special access channels are not the functional equivalents of the local loop requested in the Petition. As demonstrated in the Petition, private lines and special access channels are not well-suited to typical residential customers and may be efficient only for high-volume subscribers. Moreover, requiring alternative carriers to use private lines and special access channels in order to offer exchange access and exchange services, while affording incumbent local exchange carriers the freedom to choose between private lines, special access channels, and the local loop, will not create a meaningful test of whether competition can develop broadly in the provision of exchange access and

local exchange services. Finally, in addition to these constraints, the current state of alternative provision of private line and special access services is itself extremely limited and embryonic -- to the point that it cannot today offer even a significant competitive threat to the LEC monopoly of those services.

Some commenters argue that the Commission should not act on unbundling until the Commission reforms its access rate structure and addresses universal service issues.⁶ Other commenters argue that the Commission must consider interconnection, number portability, and collocation arrangements in connection with unbundling requirements.⁷ The numerous important and related issues identified by these commenters confirm that the best approach is for the Commission to initiate a broad rulemaking in which it comprehensively addresses all of the conditions necessary to promote exchange access and exchange competition to the maximum extent feasible.⁸

Several commenters assert that the Commission lacks jurisdiction to require unbundling of the local loop

⁶ See, e.g., USTA, pp. 1-2; BellSouth, p. 18; GTE, pp. 46-50; Sprint, pp. 3-5; LDDS, pp. 10-11.

⁷ See, Cox, pp. 2-9; TCG, pp. 1-3.

⁸ See, AT&T, p. 9-12; Sprint, pp. 2-3.

as requested in the Petition.⁹ Alternatively, these commenters argue that the Commission should deny the Petition in order to allow the states, some of which are currently conducting local competition dockets, to resolve unbundling issues for themselves.

These arguments are without merit. It cannot be disputed that the Commission has jurisdiction over the local loop to the extent that it is used in the provision of interstate services, such as interstate switched access. To further the public interest, the Commission can and should exercise its jurisdiction over the local loop to foster competition in the provision of interstate access services. Moreover, the Communications Act also empowers the Commission to ensure the development of a rapid and efficient nationwide telecommunications network, and to pre-empt, where necessary, state regulation that frustrates the exercise of federal jurisdiction to achieve that end.¹⁰ To ensure consistency and thereby ensure that

⁹ See, e.g., NARUC, pp. 6-10; NYPSC, pp. 3-6; PaPUC, p. 3-5; BellSouth, pp. 16-18; SWB, pp. 2-5.

¹⁰ The Commission has previously exercised this authority to secure the federal interest in competition in the customer premises equipment and enhanced services markets. See Computer and Communications Industry Association v. F.C.C., 693 F.2d 198 (D.C. Cir. 1982); Filing and Review of Open Network Architecture Plan, 4 F.C.C. Rcd. 1 (1988); Amendment of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, 6 F.C.C. Rcd. 4524 (1991).

opportunities for competition are maximized, the Commission should use its knowledge and expertise to lead the states in establishing the necessary conditions for tests of competition in the exchange access and local exchange marketplace.

Finally, a few RBOCs repeat the claim that unbundling should not be considered until the interLATA service restrictions imposed on the Bell Operating Companies by the Modification of Final Judgment ("MFJ") are removed.¹¹ As AT&T has demonstrated on numerous other occasions,¹² the potential benefits of vigorous competition in the provision of exchange access and local exchange services are enormous, and they independently justify efforts to promote competition in the markets for these services.¹³ Further, unless and until the local exchange and local access markets become competitive,

¹¹ See, e.g., SWB, p. 55.

¹² See In The Matter of a Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region, DA-93-481; Comments of AT&T, pp. 37, 45-46.

¹³ As the Illinois Commerce Commission recently ruled, the promotion of competition in the provision of local exchange and exchange access services is in the public interest, independent of MFJ relief for Bell Operating Companies. See Illinois Bell Telephone Company, Proposed Introduction of a Trial of Ameritech's Customers First an in Illinois, Dkt. No. 94-0096 et al., Order, pp. 34-38, April 7, 1995.


- 8 -

there is no basis for considering relief from the MFJ's
line-of-business restrictions.

WHEREFORE, for the reasons stated above and in
AT&T's comments, the Commission should grant the Petition
of MFS for a rulemaking.

Respectfully submitted,

AT&T CORP.

By: 
Mark C. Rosenblum
John J. Langhauser
Aryeh S. Friedman
Clifford K. Williams

Its Attorneys

295 North Maple Avenue
Room 3252G3
Basking Ridge, New Jersey 07920
(908) 221-2717

April 25, 1995

APPENDIX A

1. AT&T Corp. ("AT&T")
2. GTE Service Corporation ("GTE")
3. Southwestern Bell Telephone Company ("SWB")
4. Public Service Commission of Maryland ("Maryland PSC")
5. LDDS Communications, Inc. ("LDDS")
6. The Competitive Telecommunications Association ("Comptel")
7. National Association of Regulatory Utility Commissioners ("NARUC")
8. Dow, Lohnes & Albertson
9. FiberLink ("FiberLink")
10. Allnet Communication Services, Inc. ("ALLNET")
11. Intermedia Communications of Florida, Inc. ("Intermedia")
12. Teleport Communications Group Inc. ("TCG")
13. McLeod Telemanagement, Inc. ("McLeod")
14. United States Telephone Association ("USTA")
15. Sprint Corporation ("Sprint")
16. MCI Telecommunications Corporation ("MCI")
17. MFS Communications Company, Inc. ("MFS")
18. Pennsylvania Public Utility Commission ("Pa PUC")
19. Ameritech ("Ameritech")
20. BellSouth Telecommunications, Inc. ("BellSouth")
21. The NYNEX Telephone Companies ("NYNEX")
22. Pacific Bell ("PacBell")
23. Bell Atlantic ("Bell Atlantic")

CERTIFICATE OF SERVICE

I, Vi Carlone, do hereby certify that on this 25th, day of April 1995, a copy of the foregoing "Reply Comments of AT&T Corp." was mailed by United States first class mail, postage prepaid, to the parties listed on the attached service list.

A handwritten signature in cursive script, appearing to read "Vi Carlone", is written over a horizontal line.

Vi Carlone

Attachment

SERVICE LIST

Andrew D. Lipman
Russell M. Blau
Mary C. Albert
Eric J. Branfman
Swidler & Berlin, Chartered
3000 K Street, N.W.
Washington, D.C. 20007
Attorneys for
MFS Communications Co., Inc.

GTE Service Corporation
Richard McKenna
P.O. Box 152092
Irving, TX 75015-2092

Gail L. Polivy
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Robert M. Lynch
Durward D. Dupre
Thomas A. Pajda
Anthony K. Conroy
One Bell Center
Room 3520
St. Louis, Missouri 63101
Attorneys for
Southwestern Bell Telephone Co.

Bryan G. Moorhouse,
General Counsel
Susan Stevens Miller,
Assistant General Counsel
Public Service Commission
of Maryland
William Donald Schaefer Bldg.
6 St. Paul Street
Baltimore, Maryland 21202

Catherine R. Sloan
Richard L. Fruchterman III
Richard S. Whitt
LDDS Communications, Inc.
1120 Connecticut Ave., N.W.
Suite 400
Washington, D.C. 20006

Richard J. Heitmann
LDDS Worldcom
515 East Amite
Jackson, MS 39201-2702

Peter A. Rohrbach
Linda L. Oliver
Hogan & Hartson
555 Thirteenth Street, N.W.
Washington, D.C. 20004

Genevieve Morelli,
Vice President & General
Counsel
The Competitive
Telecommunications
Assoc.
1140 Connecticut Ave., N.W.
Suite 220
Washington, D.C. 20036

Edward A. Yorkgitis, Jr.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Paul Rodgers,
General Counsel
Charles D. Gray,
Asst. General Counsel
James Bradford Ramsay,
Deputy Asst. Gen. Counsel
National Assoc. of Regulatory
Utility Commissioners
1102 ICC Building
P.O. Box 684
Washington, D.C. 20044

Werner K. Hartenberger
Laura H. Phillips
J. G. Harrington
Dow, Lohnes & Albertson
1255 Twenty-Third Street, N.W.
Suite 500
Washington, D.C. 20037

J. Scott Bonney,
Vice President
FiberLink, Inc.
Jeffrey Blumenfeld
Christy C. Kunin
Blumenfeld & Cohen
Sumner Square
1615 M Street, N.W.
Suite 700
Washington, D.C. 20036

Roy L. Morris,
Allnet Communication Services,
Inc.
1990 M Street, N.W.
Suite 500
Washington, D. C. 20036

Russell M. Blau
Eric J. Branfman
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

J. Manning Lee,
Vice President
Teleport Communications
Group, Inc.
Two Teleport Drive
Suite 300
Staten Island, N.Y. 10311

Casey D. Mahon
McLeod Telemanagement, Inc.
221 Third Avenue, S.E.
Suite 500
Cedar Rapids, IA 52401

Mary McDermott
Linda L. Kent
Charles D. Cosson
United States Telephone Assoc.
1401 H Street, N.W.
Suite 600
Washington, D.C. 20005

Jay C. Keithley
Leon M. Kestenbaum
Sprint Corporation
1850 M Street, N.W.
11th Floor
Washington, D.C. 20036

W. Richard Morris
P.O. Box 11315
Kansas City, MO 64112

Norina Moy
1850 M Street, N.W.
11th Floor
Washington, D.C. 20036

Chris Frentrup
MCI Telecommunications Corp.
1801 Pennsylvania Ave. N.W.
Washington, D.C. 20006

Maureen Helmer,
General Counsel
Penny Rubin,
Assistant Counsel
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Maureen A. Scott,
Assistant Counsel
Veronica A. Smith,
Deputy Chief Counsel
John F. Povilaitis,
Chief Counsel
Attorneys for the Pennsylvania
Public Utility Commission
P.O. Box 3265
Harrisburg, PA

Larry A. Peck
Craig Anderson
Ameritech
Room 4H86
2000 W. Ameritech Center Dr.
Hoffman Estates, IL 60195

M. Robert Sutherland
Richard M. Sbaratta
BellSouth Telecommunications,
Inc.
4300 Southern Bell Center
675 West Peachtree St., N.E.
Atlanta, GA. 30375

Edward R. Wholl
Joseph Di Bella
The NYNEX Telephone Corp.
1300 I Street, N.W.
Suite 400 West
Washington, D.C. 20005

Marlin D. Ard
Theresa L. Cabral
Pacific Bell
2600 Camino Ramon
Room 2W806
San Ramon, CA 94583

James L. Wurtz
Pacific Bell
1275 Pennsylvania Ave. N.W.
Washington, D.C. 20004

Edward Shakin
Randal S. Milch
Edward D. Young, III
Michael E. Gover
Bell Atlantic Telephone Co.
1320 North Court House Rd.
Eighth Floor
Arlington, VA. 22201